



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,550	01/08/2002	Jan Trebesius	(H) 01ICP0235USP	4686

7590 05/03/2005
M Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,550

Applicant(s)

TREBESIOUS, JAN

Examiner

Marissa Thein

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 9-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's response of January 21, 2004 has been considered with the following effect.

The drawing filed on January 21, 2004 is acceptable.

Applicant's has not overcome the objection of the specification.

Applicant's responses by virtue of amendment to claims 1, 3-7, and 9-13, and 15 have overcome the Examiner's rejection of such claims under 35 USC § 112, second paragraph.

Claims 1, 7, 10-13 and 15 are amended. Claims 2, 8 and 14 are cancelled.

Claims 1, 3-7, 9-13 and 15 remain pending in this application.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-7, 9-13, and 15 have been considered but are moot in view of the new ground(s) of rejection.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

Art Unit: 3627

- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,845,263 to Camaisa et al. in view of U.S. Patent No. 5,896,504 to Shiraki.

Regarding claim 1, Camaisa discloses an online ordering system for food outlets, comprising:

Art Unit: 3627

- at least a first computer system which is accessible via the Internet under at least one domain, in which data on food outlets are stored on which a program runs (see at least Figures 1-2; col. 5, lines 37-67; col. 6, lines 38-52; col. 7, lines 24-35);
- in each case a communication connection which can be established at least temporarily between the computer system and at least a large number of all the food outlets covered (see at least Figures 1-2; col. 5, lines 37-67; col. 7, lines 24-35); and
- connects an output device and/or display device at the food outlets to the first computer system (see at least Figures 1-2; col. 5, lines 37-67; col. 7, lines 24-35).

However, Camaisa does not explicitly disclose generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; and the transmission of said fax to said fax machine.

Camaisa discloses remote ordering capabilities of the system allow for users on home PC's to access restaurant information through Wide Area Database server. This access will also be available through fax and modem line, Internet, fiber optics, etc. (Col. 16, lines 40-45). Furthermore, Camaisa discloses the communication can be done through e-mail (col. 13, lines 32-34). The customers can place orders using a home computer (col. 13, lines 42-43).

Shiraki, on the other hand, teaches generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax

Art Unit: 3627

server; the fax machine; and the transmission of said fax to said fax machine (col. 3, lines 21-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Camaisa, to include generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; and the transmission of said fax to said fax machine, as taught by Shiraki, in order to obtain information through facsimile devices without troublesome jobs of watching arrival of e-mailed devices at their computer (Shiraki, col. 5, lines 26-28).

Regarding claims 3-6, Camaisa discloses an interactive program runs on the first computer system (see at least col. 3, lines 43-61; col. 5, lines 59-62); a second computer system, which is connected to the Internet, can communicate with the first computer system (see at least Figures 1-2; col. 5, lines 37-67; col. 7, lines 24-35); the second computer system comprises a fax server (see at least col. 10, lines 19-23; col. 16, lines 43-44); and the program comprises at least one prompted user program and one unprompted user program (see at least col. 5, line 59 – col. 6, line 3).

Claims 7, 9-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,845,263 to Camaisa et al. in view of U.S. Patent No. 5,991,739 to Cupps et al. and in further view of U.S. Patent No. 5,896,504 to Shiraki.

Art Unit: 3627

Regarding claim 7, Camaisa discloses a method of operating an online ordering system, comprising:

- display of the start page (see at least Figure 3; Figures 6-7; col. 14, line 45-col. 15, line 3);
- response of the system to the use input on the basis of the stored data on the food outlets and display of the food outlets;
- user input in such a way that one of the displayed food outlets is selected,
- response of the system to the user input on the basis of the stored data on the food outlets and display of the items of food offered by the food outlet selected;
- user input in such a way that one of the displayed items of food is selected from a table reservation is made; and
- response of the system to the user input and transmission of the order to the food outlet selected.

However, Camaisa does not disclose a geographical specification. Camaisa discloses an interactive visual ordering system to provide customers of a business with remote access of product information, including product description, prices, and sales and delivery information (col. 7, lines 12-15). Furthermore, Camaisa discloses order information is placed automatically for processing, wherein the order is placed and delivered in a timely manner (col. 13, lines 35-39). Cupps, on the other hand, teaches the geographical specification (see at least Figure 11, ref. no. 302; col. 6, lines 19-30; col. 6, lines 45-56; col. 9, lines 48-55).

Art Unit: 3627

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Camaisa, to include the geographical specification, as taught by Cupps, in order to determine whether a customer is within a specified geographic area of a restaurant's area (Cupps col. 7, lines 1-4).

The combination of Camaisa and Cupps does not explicitly disclose e-mail is generated comprising an order and a fax is generated from said e-mail by said system or a connected system or a connected fax server; and the transmission of said fax to said fax machine. The combination discloses remote ordering capabilities of the system allow for users on home PC's to access restaurant information through Wide Area Database server. This access will also be available through fax and modem line, Internet, fiber optics, etc. (Camaisa, Col. 16, lines 40-45). Furthermore, the combination Camaisa discloses the communication can be done through e-mail (Camaisa, col. 13, lines 32-34). The customers can place orders using a home computer (Camaisa, col. 13, lines 42-43).

Shiraki, on the other hand, teaches e-mail is generated comprising an order and a fax is generated from said e-mail by said system or a connected system or a connected fax server; and the transmission of said fax to said fax machine (col. 3, lines 21-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the e-mail, a fax is generated from said e-mail, and the transmission of said fax to said fax machine, as taught by Shiraki, in order to obtain information through facsimile devices without

Art Unit: 3627

troublesome jobs of watching arrival of e-mailed devices at their computer (Shiraki, col. 5, lines 26-28).

Regarding claim 9, Camaisa discloses displaying various categories of food; user input of a specific category of the categories of food displayed; and response of the system to the user input on the basis of the stored data on the food outlets and display of the food outlets which offer the category of food selected (see at least Figure 3; Figures 7-9; col. 12, lines 12-26; col. 14, line 65 – col. 15, line 25).

Regarding claim 10, Camaisa transmitting a message to the orderer on the success/failure of passing on the order to the food outlet (see at least col. 15, lines 18-20).

Regarding claim 11, Camaisa discloses display of price categories of the food outlets; user input of a specific category of the price categories displayed; and response of the system to the user input on the basis of the stored data on the food outlets and display of the food outlets which is in the price categories selected (see at least Figure 3; Figures 7-9; col. 7, lines 12-15; col. 12, lines 12-26; col. 14, line 65 – col. 15, line 25).

Regarding claims 12-13, Camaisa discloses user input of a delivery time, delivery address and storage (see at least col. 7, lines 12-15; col. 9, lines 27-29; col. 13, lines 35-39).

Regarding claim 15 (depending on claim 7), the combination substantially discloses the claimed invention, however, the combination does not explicitly disclose generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; and the transmission of

Art Unit: 3627

said fax to said fax machine. The combination discloses remote ordering capabilities of the system allow for users on home PC's to access restaurant information through Wide Area Database server. This access will also be available through fax and modem line, Internet, fiber optics, etc. (Camaisa, Col. 16, lines 40-45) Furthermore, the combination discloses the communication can be done through e-mail (Camaisa, col. 13, lines 32-34). The customers can place orders using a home computer (Camaisa, col. 13, lines 42-43).

Shiraki, on the other hand, teaches generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; and the transmission of said fax to said fax machine (col. 3, lines 21-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include generating an email whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server; the fax machine; and the transmission of said fax to said fax machine, as taught by Shiraki, in order to obtain information through facsimile devices without troublesome jobs of watching arrival of e-mailed devices at their computer (Shiraki, col. 5, lines 26-28).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3627

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olaszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
April 28, 2004

James S. McClellan
JAMES MCCLELLAN
PRIMARY EXAMINER